

(j) *Record retention.* The State must retain documents in accordance with 45 CFR 74.53.

(k) *Reasonable opportunity to present satisfactory documentary evidence of citizenship.* States must give an applicant or recipient a reasonable opportunity to submit satisfactory documentary evidence of citizenship before taking action affecting the individual's eligibility for Medicaid. The time States give for submitting documentation of citizenship should be consistent with the time allowed to submit documentation to establish other facets of eligibility for which documentation is requested. (See §§sect; 435.930 and 435.911.)

[71 FR 39222, July 12, 2006, as amended at 72 FR 38691, July 13, 2007]

### Subpart F—Categorical Requirements for Eligibility

#### § 435.500 Scope.

This subpart prescribes categorical requirements for determining the eligibility of both categorically and medically needy individuals specified in subparts B, C, and D of this part.

#### DEPENDENCY

#### § 435.510 Determination of dependency.

For families with dependent children who are not receiving AFDC, the agency must use the definitions and procedures set forth under the State's AFDC plan to determine whether—

(a) An individual is a dependent child because he is deprived of parental support or care; and

(b) An individual is an eligible member of a family with dependent children.

[43 FR 45204, Sept. 29, 1978, as amended at 58 FR 4929, Jan. 19, 1993]

#### AGE

#### § 435.520 Age requirements for the aged.

The agency must not impose an age requirement of more than 65 years.

[58 FR 4929, Jan. 19, 1993]

#### § 435.522 Determination of age.

(a) Except as specified in paragraphs (b) and (c) of this section, in determining age, the agency must use the common-law method (under which an age reached the day before the anniversary of birth).

(b) For families and children, the agency must use the popular usage method (under which an age is reached on the anniversary of birth), if this method is used under the State's AFDC plan.

(c) For aged, blind, or disabled individuals, the agency must use the popular usage method, if the plan provides under § 435.121, § 435.230, or § 435.330, for coverage of aged, blind, or disabled individuals who meet more restrictive eligibility requirements than those under SSI.

(d) The agency may use an arbitrary date, such as July 1, for determining an individual's age if the year, but not the month, of his birth is known.

[58 FR 4929, Jan. 19, 1993]

#### BLINDNESS

#### § 435.530 Definition of blindness.

(a) *Definition.* The agency must use the same definition of blindness as used under SSI, except that—

(1) In determining the eligibility of individuals whose Medicaid eligibility is protected under §§ 435.130 through 435.134, the agency must use the definition of blindness that was used under the Medicaid plan in December 1973; and

(2) The agency may use a more restrictive definition to determine eligibility under § 435.121, if the definition is no more restrictive than that used under the Medicaid plan on January 1, 1972.

(b) *State plan requirement.* The State plan must contain the definition of blindness, expressed in ophthalmic measurements.

#### § 435.531 Determinations of blindness.

(a) Except as specified in paragraph (b) of this section, in determining blindness—

(1) A physician skilled in the diseases of the eye or an optometrist, whichever the individual selects, must examine

## § 435.540

## 42 CFR Ch. IV (10–1–11 Edition)

him, unless both of the applicant's eyes are missing;

(2) The examiner must submit a report of examination to the Medicaid agency; and

(3) A physician skilled in the diseases of the eye (for example, an ophthalmologist or an eye, ear, nose, and throat specialist) must review the report and determine on behalf of the agency—

(i) Whether the individual meets the definition of blindness; and

(ii) Whether and when re-examinations are necessary for periodic redeterminations of eligibility, as required under § 435.916 of this part.

(b) If an agency provides Medicaid to individuals receiving SSI on the basis of blindness, this section does not apply for those individuals.

[43 FR 45204, Sept. 29, 1978, as amended at 44 FR 17937, Mar. 23, 1979]

### DISABILITY

#### § 435.540 Definition of disability.

(a) *Definition.* The agency must use the same definition of disability as used under SSI, except that—

(1) In determining the eligibility of individuals whose Medicaid eligibility is protected under §§ 435.130 through 435.134, the agency must use the definition of disability that was used under the Medicaid plan in December 1973; and

(2) The agency may use a more restrictive definition to determine eligibility under § 435.121, if the definition is no more restrictive than that used under the Medicaid plan on January 1, 1972.

(b) *State plan requirements.* The State plan must contain the definition of disability.

#### § 435.541 Determinations of disability.

(a) *Determinations made by SSA.* The following rules and those under paragraph (b) of this section apply where an individual has applied for Medicaid on the basis of disability.

(1) If the agency has an agreement with the Social Security Administration (SSA) under section 1634 of the Act, the agency may not make a determination of disability when the only application is filed with SSA.

(2) The agency may not make an independent determination of disability if SSA has made a disability determination within the time limits set forth in § 435.911 on the same issues presented in the Medicaid application. A determination of eligibility for SSI payments based on disability that is made by SSA automatically confers Medicaid eligibility, as provided for under § 435.909.

(b) *Effect of SSA determinations.* (1) Except in the circumstances specified in paragraph (c)(3) of this section—

(i) An SSA disability determination is binding on an agency until the determination is changed by SSA.

(ii) If the SSA determination is changed, the new determination is also binding on the agency.

(2) The agency must refer to SSA all applicants who allege new information or evidence affecting previous SSA determinations of ineligibility based upon disability for reconsideration or reopening of the determination, except in cases specified in paragraph (c)(4) of this section.

(c) *Determinations made by the Medicaid agency.* The agency must make a determination of disability in accordance with the requirements of this section if any of the following circumstances exist:

(1) The individual applies for Medicaid as a non-cash recipient and has not applied to SSA for SSI cash benefits, whether or not a State has a section 1634 agreement with SSA; or an individual applies for Medicaid and has applied to SSA for SSI benefits and is found ineligible for SSI for a reason other than disability.

(2) The individual applies both to SSA for SSI and to the State Medicaid agency for Medicaid, the State agency has a section 1634 agreement with SSA, and SSA has not made an SSI disability determination within 90 days from the date of the individual's application for Medicaid.

(3) The individual applies to SSA for SSI and to the State Medicaid agency for Medicaid, the State does not have a section 1634 agreement with SSA, and either the State uses more restrictive criteria than SSI for determining Medicaid eligibility under its section 1902(f) option or, in the case of a State that